

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79720 of 2023

Arising Out of PS. Case No.-228 Year-2022 Thana- DHANAHA District- West Champaran

Awadesh Kurmi, Male, aged about 36 years, Son of Sri Jagarnath Kurmi,
Resident of Village - Kathar, P.S. - Dhanaha, District - West Champaran,
Bihar-845404

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Upendra Yadav, Advocate
For the Opposite Party : Mrs. Renu Kumari, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

4 16-07-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with
Dhanaha P.S. Case No. 228 of 2022 dated 28.09.2022 registered
for the offences punishable under Sections 8, 20(b)(ii)(c), 23,
23(c), 25 and 29 of the N.D.P.S. Act.

3. As per the prosecution case, total 76.610 kgs.,
Ganja is said to have been recovered from the car of the
petitioner.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. It is submitted that the petitioner is not named in the
F.I.R. His name has sprung up in the present case only because



he happens to be the owner of the car bearing Registration No. BR06AE9890. No incriminating article has been recovered from the conscious possession of the petitioner. It is further submitted that on 27.09.2022 at 12.00 P.M., while the petitioner was returning to his home, his car was not started hence, he parked his car near the *Dhanaha Bridge* due to non-availability of the mechanic in the midnight and went to his home. In the next morning, when he went to *Dhanaha Bridge* where he parked his car, he was shocked to find his car missing and later on, he came to know about the recovery of *Ganja* from his car. It is further submitted that the car in question was not used for the commercial purpose rather the same was for his personal use. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 24.03.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and has further submitted that 76.610 kgs., *Ganja* is recovered from the car of the petitioner. The seized contraband is commercial quantity and the petitioner had no any valid authorization for keeping the said contraband.

As per Section 37 of the N.D.P.S. Act, the two



conditions are that the Court should be satisfied with:-

- (i) There are reasonable grounds for believing that the accused is not guilty of such offence; and
- (ii) He is not likely to commit any offence while on bail.

If either of these two conditions is not satisfied, the bar operates and the accused cannot be released on bail. The Court is of the opinion that the parameters of bail available under Section 37 of the Act have not satisfied in the facts of the instant case. The Hon'ble Supreme Court in the case of *Narcotics Control Bureau v. Mohit Aggarwal 2022 SCC OnLine SC 891* has held that “The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the N.D.P.S. Act.”

6. Considering the aforesaid facts and circumstances of the case, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Dhanaha P.S. Case No. 228 of 2022, pending in the court of learned



Sessions Judge, West Champaran, Bettiah.

7. The application stands rejected..

8. Learned court below is directed to expedite the trial
of the petitioner at the earliest.

(Chandra Prakash Singh, J)

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